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PROGRAMME BUDGET FOR THE BIENNIUM 1996-1997

Extension of the premises of the International Court of Justice

Draft Supplementary Agreement between the United Nations and the Carnegie Foundation concerning the use of the Peace Palace at The Hague

Report of the Secretary-General

I. INTRODUCTION

1. It will be recalled that in the report of the Secretary-General on the extension of premises of the International Court of Justice (A/C.5/50/19) it was indicated that increases in the activities of the Court had given rise to increased occupancy and expansion of the premises in the Peace Palace over the years. The premises had been supplemented by the construction of a new building for the Court in the 1970s (occupancy began in 1978) on the grounds of the Peace Palace. Subsequently, owing to continued increases in the activities of the Court, reconstruction of storage and other space in the attic of the main building of the Peace Palace was undertaken to provide for additional offices for Judges of the Court, additional office space for staff of the Registry, a dining room for members of the Court and the staff of its Registry, where members of the Court could promote their collegiate concerns in confidential exchanges and minimize the time spent away from the office during sessions of the Court, and storage space.

2. The General Assembly, in section III, paragraph 14, of its resolution 50/214 of 23 December 1995, accepted the proposal of the Secretary-General, subject to the recommendations of the Advisory Committee on Administrative and Budgetary Questions, for the enlargement of the premises of the Court, subject to further review in the context of a savings report called for in section II, paragraph 7, of the resolution. In its report (A/50/7/Add.11), the Advisory Committee indicated that the inflation rate applicable to the annual

contribution paid by the United Nations to the Carnegie Foundation for the use of the premises in the Peace Palace would be subject to review by the Committee and approval by the Assembly each time an increase was requested.

3. In a letter dated 23 January 1997, the Carnegie Foundation informed the Secretary-General that the enlarged premises had been put at the disposal of the Court as from 1 January 1997, as scheduled. As stated in the report to the General Assembly at its fiftieth session, following discussions and exchanges on possible amendments to the Agreement between the Carnegie Foundation and the United Nations on the premises occupied by the Court at The Hague, it had been concluded that the enlargement of the premises would result in amendments to article II of the Agreement, which sets out the annual contribution payable by the United Nations to the Foundation, and article IV, which sets out the accommodations at the Peace Palace made available to the Court.

II. HISTORICAL BACKGROUND OF THE AGREEMENT

4. The Agreement concluded between the United Nations and the Carnegie Foundation, dated 21 February 1946, was subsequently approved by the General Assembly in its resolution 84 (I) of 11 December 1946 for occupancy of the original premises (formerly occupied by its predecessor, the Permanent Court of International Justice) by the International Court of Justice. It stipulated payment by the Court of an annual contribution of 48,000 Netherlands florins for the use of certain designated premises in the Peace Palace. That sum was increased to F. 68,400 by the Assembly in its resolution 586 (VI) of 21 December 1951, in which it approved a Supplementary Agreement in order to offset the devaluation of the guilder. Another Supplementary Agreement was approved by the Assembly under the terms of resolution 1343 (XIII) of 13 December 1958, by which the annual contribution was increased to F. 100,000 as a result of increased costs of maintenance of the Peace Palace. Subsequent increases in the United Nations contribution over the years, based on requests by the Foundation owing to increases in its operating costs attributable to changes in the rate of inflation, were approved by the Assembly without supplementary agreements.

III. ARTICLES II AND IV OF THE EXISTING AGREEMENT

5. A proposed amendment to article II of the Agreement, which establishes the annual contribution payable by the United Nations to the Carnegie Foundation for premises occupied by the Court in the Peace Palace, would cause a change in the amount stated therein from F. 100,000 to F. 1,843,582 net and introduce a qualification that the agreed amount is "subject to annual increases relating only to inflation", which was not part of the original Agreement or subsequent amendments. The proposed amendment to article II is annexed to the present report.

6. The proposed amendment to article IV of the Agreement, pertaining primarily to a revision in the number of rooms made available to the Court, is reflected in the annex to the present report. The office accommodations and related facilities of the Court are grouped under three general categories: permanent

offices and related space, facilities for sessions of the Court and offices for ad hoc judges and temporary staff. Article IV stipulates that:

"The Court shall have the permanent and exclusive use of the following rooms: nos. 8, 9, 10, 11, 13, 27, 28, 38, 200, 201, 202, 203, 204, 205, 206, 207, 208, 209, 210, 211, 213, 214, 215, 216, 217, 218, 219, 220, 221, 222, 223, 224, 225, 226, 227, 228, 229, 230, 231, 232, 301, 302, 303 and 306, as well as the room known as the 'Refectory' and the adjacent premises appertaining thereto.

"Whilst the Court and its Chambers are in session, the Court shall have the use of the Great Court Room (No. 2) and the ante-chamber (No. 3) as well as of rooms No. 1 and 25. On days on which the Court is not meeting in public, the said premises may be used by other institutions.

"The Court will be entitled to the joint use of all the other premises of the Palace necessary for its work, in accordance with agreements to be concluded in each particular case with the Foundation.

"Members of the Court and its officials shall enjoy on the same footing as the other members and officials of the other institutions occupying the Peace Palace:

"1. The entrances and exits, vestibules, corridors and stairways;

"2. The cloak-rooms and lavatories adjacent to the premises occupied;

"3. The lifts and similar parts of the Palace intended for general use."

IV. SUMMARY AND FINANCIAL IMPLICATIONS FOR 1996-1997

7. As mentioned in paragraph 2 above, the General Assembly, in its resolution 50/214, accepted the proposal of the Secretary-General, subject to the recommendations of the Advisory Committee on Administrative and Budgetary Questions and to further review in the context of a report on savings called for in the resolution. In its resolution 50/215 A of 23 December 1995, the Assembly appropriated $331,400 to provide for additional accommodation for the Court. In its resolution 51/221 A of 18 December 1996, the Assembly approved the adjustment of $78,100 in the contribution payable by the United Nations to the Carnegie Foundation for further enlargement of the premises available to the Court. The Carnegie Foundation had assented to a one-time reduction, effective 1 January 1997, in the contribution payable by the United Nations for its share of the general operating expenses of premises provided to the Court in the Peace Palace at The Hague (see A/C.5/50/57/Add.1).

8. The Carnegie Foundation, in a letter dated 23 January 1997, informed the Secretary-General that the enlarged premises had been made available to the Court as from 1 January 1997, and it assumed that the Supplementary Agreement between the United Nations and the Foundation had in fact entered into force on 1 January 1997. The Foundation was informed that the Agreement was subject to the approval of the General Assembly. In letters dated 11 September and

30 October 1997, the Foundation concurred that the base amount of the annual payment indicated in the draft Supplementary Agreement should remain unchanged for at least five years.

9. The estimated requirements for the biennium 1996-1997 for the enlarged premises for which provision has been made total $253,300 (before recosting). The total estimated contribution requested by the Carnegie Foundation (including that for new accommodations) would be increased to F. 3,826,585 per biennium in 1998-1999. Provisions ($2,178,500 before recosting) have been made under section 5 of the proposed programme budget for the biennium 1998-1999 for that purpose.[1]

V. ACTION TO BE TAKEN BY THE GENERAL ASSEMBLY

10. Amendments to the Supplementary Agreement are submitted for the approval of the General Assembly (see annex).

Notes

[1] Official Records of the General Assembly, Fifty-second Session, Supplement No. 6 (A/52/6/Rev.1), vol. I, sect. 5.

ANNEX

Draft Supplementary Agreement between the United Nations and the Carnegie Foundation concerning the use of the Peace Palace at The Hague

1. The United Nations and the Carnegie Foundation hereby agree that article II of the Agreement between the United Nations and the Carnegie Foundation concerning the use of the premises of the Peace Palace at The Hague, as contained in annex A to General Assembly resolution 84 (I) of 11 December 1946, as amended by the Supplementary Agreements contained in the annexes to Assembly resolutions 586 (VI) of 21 December 1951, and 1343 (XIII) of 13 December 1958, and article IV shall be amended to read as follows:

"Article II

"The annual contribution payable by the International Court of Justice in respect of the use of the Peace Palace is hereby fixed at 1,843,582 Netherlands florins net, subject to annual increases relating only to inflation. This base amount shall be reviewed after a period of five years."

"Article IV

"The Court shall, in addition to the judges' wing, have the permanent and exclusive use of the following rooms: No. 7, 8, 11, 13, 200, 201, 202, 203, 204, 205, 206, 207, 208, 209, 210, 211, 213, 214, 215, 216, 217, 218, 219, 220, 221, 222, 223, 224, 225, 226, 227, 228, 229, 230, 231, 232, 410, 411, 413, 414, 415, 416, 417, 418, 419, 421, 425, 426, 427, 428, 429, 430, 431, 433, 434, 435, 437, 439, 441, 442, 443, 444, 446, 447, 448, 449, 450, 451, 452, 453, 454, 455, 456, 457, and archive spaces No. 302, 303, 305, 306, 307, 308, 401, 402, 403 and 404.

"Whilst the Court and its Chambers are in session, the Court shall have the use of the Great Court Room (No. 2) with the ante-chamber (No. 3) as well as of rooms No. 1, 5 and 25. On days on which the Court is not meeting in public, the said premises may be used by other institutions.

"The Court shall be entitled to the joint use of all the other premises of the Palace necessary for its work, in accordance with agreements to be concluded in each particular case with the Foundation.

"Members of the Court and its officials shall enjoy on the same footing as the other members and officials of the other institutions occupying the Peace Palace:

"1. The entrances and exits, vestibules, corridors and stairways;

"2. The cloak-rooms and lavatories adjacent to the premises occupied;

"3. The lifts and similar parts of the Palace intended for general use."

2. This Supplementary Agreement shall enter into force on 1 January 1997.